

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

EDGAR W. TUTTLE, ERIC BRAUN, THE
BRAUN FAMILY TRUST, and WENDY
MEG SIEGEL, on behalf of themselves and
all others similarly situated,

No. C 10-03588 WHA

Plaintiffs,

v.

SKY BELL ASSET MANAGEMENT, LLC,
et al.,

**ORDER GRANTING LEAVE TO FILE
MOTION FOR APPOINTMENT AS
INTERIM CLASS COUNSEL AND
REGARDING PLAINTIFFS' RESPONSE
TO AUGUST 1 ORDER**

Defendants.

Plaintiffs' counsel have responded to an order dated August 1 requesting that they reconcile their memorandum of understanding regarding settlement with certain defendants and stipulation anticipating a motion for preliminary approval with the memorandum opinion regarding factors to be evaluated for any proposed class settlement (Dkt. No. 66). They request and are hereby granted leave to file a motion for appointment as interim class counsel — counsel have always been free to so move.

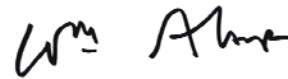
Counsel also request that such motion be heard on an expedited basis. Yet, they shall not be granted expedited relief in advance and should notice their motion in the normal course. Whether early resolution is appropriate will be assessed once their submission has been made and depending on whether any opposition is received.

As a final note, counsel's submission states that the admonition in the memorandum opinion that counsel shall "[p]lease avoid agreement on any division, tentative or otherwise" regarding attorney's fees in any settlement agreement (Dkt. No. 66 at 4), "clearly refers to a

1 situation where there are multiple class counsel each staking a claim to attorneys' fees." Not so.
2 To the contrary, it "clearly" means that "the Court prefers that *all settlements* avoid any
3 agreement as to attorney's fees and leave that to the judge" — just as it says. For example, an
4 agreement that commits a certain percentage of the class pot to go to class counsel may be a
5 problem under this admonition. It is not limited to multiple-class-counsel cases, and should not
6 be construed as such.

7
8 **IT IS SO ORDERED.**

9
10 Dated: August 4, 2011.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE